

other income next become payable to or are received by him.

(c) *Determination of exempt amount.* For each payroll period determined pursuant to paragraph (b) of this section, amounts exempt from levy pursuant to section 6334(a)(9) and this section are as follows:

(1) If such payroll period is weekly: \$50, plus \$15 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(2) If such payroll period is biweekly: \$100, plus \$30 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(3) If such payroll period is semi-monthly: \$108.33, plus \$32.50 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(4) If such payroll period is monthly: \$216.67, plus \$65 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(5) If such payroll period is not weekly, biweekly, semimonthly or monthly: a proportionate amount based upon the sum of an annual exemption of \$2,600 plus \$780 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(d) *Dependent exemption*—(1) *Dependent defined.* For purposes of this section, a person is a dependent of an individual for any payroll period of such individual, if—

(i) Over half of such person's support for such payroll period was received from the individual, and

(ii) Such person is the spouse of the individual, or bears a relationship to the individual specified in section 152(a) (1) through (9) (relating to definition of dependent), and

(iii) Such person is not a minor child of the individual with respect to whom amounts are exempt from levy under section 6334(a)(8) (relating to exemption from levy for judgments for support of minor children) at any time during such payroll period.

For purposes of subdivision (ii) of this subparagraph, "payroll period" shall be substituted for "taxable year" each place it appears in section 152(a)(9).

(2) *Claim for dependent exemption.* No amount prescribed by paragraph (c) of this section as being exempt from levy

for each person who is claimed as a dependent pursuant to this paragraph shall be so exempt unless there is delivered to the employer or other person upon whom notice of levy is served a written statement, signed by the individual seeking such exemption and containing a declaration that it is made under the penalties of perjury, which identifies, by name and by relationship to such individual, each person for whom a dependent exemption is claimed.

(e) *Cross references.* (1) For the requirement for notice of intent to levy on salary or wages, see section 6331(d)(1).

(2) For the continuing effect of a levy on salary or wages, see section 6331(d)(3).

(3) For other property exempt from levy, see section 6334 and § 301.6334-1.

(f) *Effective date.* The regulations prescribed by this section shall apply with respect to levies on wages, salary, and other income made after February 28, 1977.

(Sec. 6334(d) (90 Stat. 1709; 68A Stat. 917; 26 U.S.C. 6334))

[T.D. 7468, 42 FR 12042, Mar. 2, 1977]

PARTS 405-419 [RESERVED]

PART 420—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SOURCE: T.D. 7347, 40 FR 12075, Mar. 17, 1975, unless otherwise noted.

§ 420.0-1 Certain existing plans may elect new provisions.

(a) *In general.* The plan administrator (as defined in section 414(g)) of a plan that was in existence on January 1, 1974, may elect to have the provisions of the Code relating to participation, vesting, funding, and form of benefit (as in effect from time to time) apply to a plan year selected by the plan administrator which begins after September 2, 1974, but before the otherwise applicable effective dates determined under section 1017 (b) or (c), 1021, or

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1024 of the Employee Retirement Income Security Act of 1974, and to all subsequent plan years. The provisions referred to are the amendments to the Code made by sections 1011, 1012, 1013, 1015, 1016(a) (1) through (11) and (13) through (27), 1021, and 1022(b) of the Employee Retirement Income Security Act of 1974.

(b) *Election is irrevocable.* Any election made under this section, once made, shall be irrevocable.

(c) *Procedure and time for making election.* An election under this section shall be made by attaching a statement to either the annual return required under section 6058(a) (or an amended return) with respect to the plan which is filed for the first plan year for which the election is effective or to a written request for a determination letter re-

lating to the qualification of the plan under section 401 (a), 403(a), or 405(a) of the Code and, if trustee, the exempt status under section 501(a) of the Code of a trust constituting a part of the plan. If the election is made with a written request for a determination letter, the election may be conditioned upon issuance of a favorable determination letter, and will become irrevocable upon issuance of such letter. The statement shall indicate that the election is made under section 1017 (d) of the Employee Retirement Income Security Act of 1974 and the first plan year for which the election is effective.

(Sec. 1017(d), Employee Retirement Income Security Act of 1974, 88 Stat. 934)

PARTS 421-499 [RESERVED]